

No. 55231-1-II
COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

FILED
COURT OF APPEALS
DIVISION II
2019 NOV 16 PM 1:29
STATE OF WASHINGTON
BY DT
DEPUTY

PIERCE COUNTY, Respondent

v.

RICHARD E. SORRELS, Appellant

APPELLANT'S OPENING BRIEF

Richard Sorrels
Appellant, Pro Se
9013 Key Pen Hwy NW, Suite E-110
Lakebay WA 98349
253-884-4650

TABLE OF CONTENTS

A. ASSIGNMENT OF ERROR	1
B. STATEMENT OF THE CASE AND ARGUMENT	1
C. CONCLUSION	3

TABLE OF AUTHORITIES

Constitution

Constitution of the State of Washington, Article 1, Section 3	2
---	---

Washington State Supreme Court Rules

Emergency Order #4, Public Health Emergency Order Regarding Operations	1
Emergency Order #20-15	1

A. ASSIGNMENT OF ERROR

No. 1. The trial court erred in entering the Order of August 28, 2020, granting a Warrant of Abatement.

Issues Pertaining to Assignment of Error

No.1. Did the trial court err in hearing Plaintiff's "Motion to Authorize Re-issuance of a Warrant of Abatement" without allowing Defendant to participate in the hearing, and without allowing a continuance for Defendant to obtain an attorney or affidavits, especially when Covid restrictions and Emergency Orders state that the Court **will** grant such continuance?? YES

B. STATEMENT OF THE CASE AND ARGUMENT

We have a pandemic, Covid. The Washington State Supreme Court created Emergency Rules for Courts to follow to help avoid a few more deaths.

"It is hereby ordered that:

A. Civil Matters. . . . If any party requests a continuance, the Court **will** grant the continuance and set a new trial date. Attorneys and/or parties requesting a continuance must contact the assigned judicial department either by telephone or email. . . . For trial dates after April 24, 2020, the Court **will** consider, and **literally grant** requests to continue trial dates." (Emergency Order #4, "Public Health Emergency Order Regarding Operations" for Pierce County.)

Emergency Order #4 was amended by Emergency Order #20-15, with no change to this provision, but with added comment emphasizing that "Judicial Assistants will work to contact the parties by phone or email."

Plaintiff filed his Motion and Note for Motion Docket on 8/05/2020. Defendant Sorrels received the Motion on 8/14/2020, late on that Friday for a hearing set for 8/28/2020. (CP 38).

Defendant Sorrels was still recovering from a massive heart attack and at extreme high risk regarding Covid. He learned that something called "Zoom" was commonly used, and needed to make sure that if the continuance he requested was not granted, then hearing could be conducted by this "Zoom". Sorrels made phone calls nearly every day to the Court's JA, leaving a number of messages, getting NO response back. Weeks after the hearing date, Sorrels learned from Court Admin that the Department was on recess from 8/14/2020 through 9/21/2020.

Having received NO response, on 8/25/2020 Sorrels E-filed "Response to and Defendants Motion to Continue Hearing Date for Re-issuance of Warrant of Abatement." (CP 38-39). Followed by "Declaration

of C. Sorrels Re Motion to Re-issue Warrant of Abatement". (CP 40-52).

Having continued his unsuccessful phone attempts to contact the JA, and NOT having seen any confirmation of hearing, Sorrels still did not know, when, if, where or how any hearing would occur. At 8:45 AM on 8/28/2020, Sorrels left phone message with the JA that Sorrels would be waiting at his phone IF there was to be any hearing. Having NOT received any call back, at NOON, Sorrels left another phone message with the JA saying Sorrels would stop waiting.

The 8 page Report of Proceedings reveals that at 10:13 AM on 8/28/2020, a "Zoom video hearing" was conducting, with the JA saying that "Mr Sorrels has not appeared". The Judge acknowledged that Sorrels had "provided her with some papers", but did not say what papers, and that Sorrels asks the motion to be set over, citing some of his reasons. The Judge cited a specific concern about Sorrels' "Due Process Rights", and then granted the Motion for Warrant for Abatement. The cited reason was "His failure to show up today". This was all done while Sorrels was waiting at his phone to join any hearing that might happen.

The Report of Proceedings states that "Parts of the following proceedings were conducted via Zoom video conferencing". Sorrels had never heard the term "Zoom" before, or "Zoom video conferencing". No instructions were ever provided. Sorrels was never even informed the hearing would be held, except for the Note for Motion Docket. He was expecting the hearing to be continued, as per Emergency Orders so that attorney could be retained and affidavits obtained. Sorrels health was deteriorating and was no longer able to defend himself.

Sorrels was served with "Note for Motion Docket", the only defendant so served, inviting him to defend a motion. Sorrels did everything within his power to attend, and to continue the hearing. Actions and non-actions by the Court and the JA prevented Sorrels from attending, and denying his Constitutional Due Process Rights guaranteed under Article 1, Section 3 of the Constitution of the State of Washington:

"Personal Rights. NO person shall be deprived of life, liberty, or property, without due process of law."

The Warrant of Abatement allows seizure and destruction of valuable personal property to which Sorrels has an interest, as do the Trustee and Beneficiaries of The RES Trust, and other persons, none of whom had been served with process for this matter.

CONCLUSION

The Court and the JA erred in not advising Defendant how to join in a Zoom video conference, and the Court further erred in entering an Order for Writ of Abatement, which Sorrels was not allowed to defend against. The Court should make these finding and remand back to the trial court for further proceedings.

Dated this 15th day of November 2021.

Respectfully submitted,



Richard Sorrels
Appellant Pro Se
9013 Key Pen Hwy, Suite E-110
Lakebay WA 98349

Proof of Service

Richard Sorrels served the above on 11/16/2021 by mailing the same to Attorney David Owen at 955 Tacoma Ave South, Suite 301, Tacoma WA 998402.

Dated 11/16/2021.



Richard Sorrels